IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 979 of 1996

Between:

M. Nagabhushanaswamy S/o M. Gadilingaiaswamy
R/o Chabala Village, Vajrakaruru Mandal,
Ananthapur Dist.

..... PETITIONER

AND

1 Mandal Revenue Officer
Vajrakaru Mandal, Ananthapur Dist.
2 Revenue Divisional Officer,
Ananthapur
3 M. Umapathyswamy S/o M. Sangameswaraswamy
R/o Chabale (V), Vajrakaruru (M),
Ananthapur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ, Order or Direction more particularly one in the Nature of Writ of Mandamus, directing the Respondents not to interfere with the petitioners rights of enjoyment of House Site assigned according to law in S.No.213 to an extent of 9.4 cents situated at Chabala Village Vajrakarur (M), Ananthapur Dist. and consequently direct the respondents to permit the Petitioner to construct House according to Law.

Counsel for the Petitioner: MR.P.SAI NATH

Counsel for the Respondents 1 & 2: GP FOR REVENUE

The Court made the following :

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO.979 OF 1996

ORDER:

This writ petition is filed seeking a writ of mandamus to direct the respondents not to interfere with the construction of the house in the house site admeasuring Ac.9.40 cents in Survey No.213 of Chabala village of Anantapur district.

It is the case of the petitioner that the land in question was assigned to his father, considering his eligibility, and when the petitioner was making construction over the said land, the first respondent, at the instance of the third respondent herein, issued notice dated 10.1.1996 directing the petitioner not to take up construction over the said land. The grievance of the petitioner is that no enquiry was conducted prior to issuance of the impugned notice and the impugned notice was issued at the instance of the third respondent.

Though the writ petition is of the year 1996, no counter is filed. Even from the reading of the impugned notice dated 10.1.1996 there is no indication that the petitioner was given any prior notice. Further, in the very notice, reference of the complaint given by the third respondent is also made. The first respondent ought to

have issued notice to the petitioner before issuing any direction, more particularly when the complaint was lodged by the third respondent.

Inasmuch as no counter is filed disputing the averments of the writ petition, and further there is no indication of issuance of any notice or conducting of any enquiry, prior to issuance of the impugned notice, I dispose of the writ petition setting aside the notice dated 10.1.1996. However, I make it clear that this will not preclude the respondents to conduct enquiry in accordance with law.

Subject to above direction, the writ petition is disposed of. No order as to costs.

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(JUSTICE R.SUBHASH REDDY)

Dt.23.02.2005.

Mdaa.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Mandal Revenue Officer
Vajrakaru Mandal, Ananthapur Dist.
2 Revenue Divisional Officer,
Ananthapur

3. Two C.Cs to G.P.for Revenue, High Court of A.P.,Hyderabad (OUT).

4. 2 CD copies

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